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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/776,425	02/11/2004	Brett B. Stewart	5285-00108	2888

7590

07/20/2005

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EXAMINER

PHAN, DAO LINDA

ART UNIT	PAPER NUMBER
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3662

DATE MAILED: 07/20/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/776,425	Applicant(s) STEWART, BRETT B.	
	Examiner Dao L. Phan	Art Unit 3662	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 31 May 2005.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) See Continuation Sheet is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) See Continuation Sheet is/are allowed.
- 6) ☐ Claim(s) 52-54, 56-60, 62-66, 68-78, 80, 81, 83-86, 95-97, 99-102 and 200-203 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Continuation of Disposition of Claims: Claims pending in the application are 1-7,9-19,21-25,27-32,52-54,56-60,62-66,68-78,80,81,83-87,89-91,93-97,99-102,110,150,152,153,155-157,159,160,162,163,167,169 and 196-203.

Continuation of Disposition of Claims: Claims allowed are 1-7,9-19,21-25,27-32,87,89-91,93,94,110,150,152,153,155-157,159,160,162,163,167-169 and 196-199.

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1. Amendment received on 5/31/05 has been entered in this application.
2. An application in which the benefits of an earlier application are desired must contain a specific reference to the prior application(s) in the first sentence of the specification or in an application data sheet (37 CFR 1.78(a)(2) and (a)(5)). The specific reference to any prior nonprovisional application must include the relationship (i.e., continuation, divisional, or continuation-in-part) between the applications except when the reference is to a prior application of a CPA assigned the same application number. Correction is required.
3. Claims 200-203 are rejected under 35 U.S.C. 112, first paragraph, because the specification, while being enabling for advertisement information, does not reasonably provide enablement for every advertisement information. The specification does not enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the invention commensurate in scope with these claims. This can be read a single means claim in re Hyatt 218 USPQ19S.
4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

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5. Claims 200-203 are rejected under 35 U.S.C. 102(b) as being anticipated by Park (Pat. No. 5,627,549).

Park teaches a computer-readable data signal embodied in a carrier wave including advertisement information (fig. 6; col 10, lines 66-67). There is no "means" of advertisement information. "A content of advertisement information" is intended use.

6. Claims 200-203 are rejected under 35 U.S.C. 102(e) as being anticipated by Semple et al (Pat. No. 6,408,307) or Filepp et al (US 2003/0018527).

Semple et al teach a computer-readable data signal embodied in a carrier wave including advertisement information (col 15, lines 53-55). There is no "means" of advertisement information. "A content of advertisement information" is intended use.

Filepp et al teach a computer-readable data signal embodied in a carrier wave including advertisement information (paragraph 0019, 0241, 0234). There is no "means" of advertisement information. "A content of advertisement information" is intended use.

7. Claims 52-54, 56-60, 62-66, 68-78, 80-81, 83-86, 95-97, 99-102 are rejected under 35 U.S.C. 102(b) as being anticipated by Park (Pat. No. 5,627,549).

Park further teaches providing geographic based promotion services to a computing device including receiving (20; col 4, line 35+) a geographic location of the computing device, and transmitting (fig. 6) the advertisement information to the computing device, wherein the content of the advertisement information is dependent on the geographic location 80 of the computing device. "wherein the geographic location

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of the computing device comprises a geographic location of an access point communicating with the computing device" is intended use.

8. Claims 52-54, 56-60, 62-66, 68-78, 80-81, 83-86, 95-97, 99-102 are rejected under 35 U.S.C. 102(e) as being anticipated by Semple et al (Pat. No. 6,408,307) or Filepp et al (US 2003/0018527).

Semple et al further teach providing geographic based promotion services to a computing device including receiving (16; fig. 3, 3A, 3B, 3C, 6A) a geographic location of the computing device, and transmitting (col 15, lines 53-55) the advertisement information to the computing device, wherein the content of the advertisement information is dependent on the geographic location (16; fig. 3, 3A, 3B, 3C, 6A) of the computing device. "wherein the geographic location of the computing device comprises a geographic location of an access point communicating with the computing device" is intended use.

Filepp et al further teach providing geographic based promotion services to a computing device including receiving (abstract, lines 18-25) a geographic location of the computing device, and transmitting (paragraph 0234) the advertisement information to the computing device, wherein the content of the advertisement information is dependent on the geographic location (abstract, lines 18-25) of the computing device. "wherein the geographic location of the computing device comprises a geographic location of an access point communicating with the computing device" is intended use.

9. Claims 1-7, 9-19, 21-25, 27-32, 87, 89-91, 93-94, 110, 150, 152-153, 155-157, 159-160, 162-163, 167-169, 196-199 are allowed.

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10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


11. A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dao L. Phan whose telephone number is (571)272-6976. The examiner can normally be reached on M-F 9:00-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tarcza Thomas can be reached on (571)272-6979. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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13. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



DAO PHAN
PATENT EXAMINER